IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2886 of 1988

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T.CORPORATION - Petitioner(s)

Versus

CHANABHAI GALABHAI LALAKIYA - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

MR NIRDOSH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 28/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 1st January, 1987 passed by the Labour Court, Rajkot, in Reference [L.C.R.] No. 1153 of 1984, whereby the Labour Court has directed the petitioner Corporation to reinstate

the respondent workman in service on his original post with continuity of service & with full back wages.

2. The short facts of the case are that the respondent workman was working as a conductor in the petitioner Corporation. The respondent workman was vide order dated 18th April, 1984 dismissed from the service on the ground of misappropriation of amount.

2.1. Being aggrieved by the said dismissal order, the respondent workman raised an industrial dispute which was ultimately referred to the Labour Court, Rajkot for adjudication. The Labour Court while considering the case on merits, allowed the Reference with the aforesaid directions. Hence, this petition.

3. Mr. Raval learned advocate for the petitioner Corporation has contended that since the charges levelled against the respondent workman were of serious nature, the Labour Court ought not to have granted reinstatement with continuity of service along with full back wages.

4. As against that Mr. Rathod learned advocate for the respondent workman has supported the order passed by the Labour Court *inasmuch* as the the charges levelled against the respondent workman were not proved and, therefore, the Labour Court was justified in exercising powers in favour of the respondent workman.

5. I have heard the learned advocates for the respective parties. Having perused the materials placed on

record, it transpires that this Court while admitting the matter, has stayed the impugned award qua back wages only and the respondent workman was reinstated in service. Therefore, since the respondent workman has been reinstated in service and it has continued for almost 17 years, I am not inclined to disturb the said order. However, so far as direction with regard to grant full back wages is concerned, the same is required to be quashed and set aside in view of the principle laid down by the Apex Court that no workmen is entitled for wages if he has not worked for the intervening period.

6. For the foregoing reasons, the petition is partly allowed. The order dated 1st January, 1987 passed by the Labour Court, Rajkot, in Reference [L.C.R.] No. 1153 of 1984 is modified to the extent that the direction qua reinstatement in service is confirmed and rest of the award is quashed and set aside. However, it is made clear that the petitioner Corporation shall grant all the consequential benefits with regard to continuity in service within a period of two months from the date of receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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